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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,605	10/08/2003	Stella H. McKinney	MCKI007	7180
21322	7590	05/04/2004	EXAMINER	
MARK A OATHOUT 3701 KIRBY DRIVE, SUITE 960 HOUSTON, TX 77098			CHAN, KO HUNG	
			ART UNIT	PAPER NUMBER
			3632	
DATE MAILED: 05/04/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/681,605

Applicant(s)

MCKINNEY, STELLA H.

Examiner

Kori H. Chan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 October 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-12 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. "The hinge" in claim 4 lacks proper antecedent basis.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-9, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Shim (US patent no. 5056,822). Shim discloses an apparatus capable of mounting on a shopping cart comprising a clamping device (12); a bracket (46, figure 6) connected to the clamping device and a panel (53) connected to the bracket; a clip (82, figure 6) connected to the panel; wherein the clip has a hinge (90, figure 6) including a lever (88, figure 6) rotatably connected to the hinge; wherein the panel has a planar upper surface; wherein the clamping device has a user-adjusting means of attachment (30, 42) includes a layer of padding (23); wherein the clamping device is a friction increasing means of attachment (30, 42); wherein a longer axis of the panel is parallel to the horizontal.

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Applicant's intended usage for a shopping cart is not accorded with patentable weight. Shim's apparatus is capable of mounting onto a shopping cart.

Claims 1-5, 7, 9, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller (US patent no. 2,888,761). Miller discloses an apparatus for mounting on a shopping cart comprising a clamping device (20); a bracket (16) connected to the clamping device and a panel (14) connected to the bracket; a clip (24) connected to the panel; wherein the clip has a hinge (26) including a lever (24) rotatably connected to the hinge; wherein the panel has a planar upper surface; wherein the clamping device has a user-adjusting means of attachment (18,20) and wherein the clamping device is a friction increasing means of attachment (18, 20); wherein a longer axis of the panel is parallel to the horizontal.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (US patent no. 2,888,761) in view of Kagayama (US patent no. 5,332,183) and further in view of Prizzi (US Publication no. 20030094555). Miller disclosed all the claimed features of applicant's invention except for the clamp device has a hinge with layer of padding. Clamp device of hinge type is old and well-known. Hinge type clamp

device has the known advantage of ease in opening the clamp during usage.

Kagayama teaches a clamp device for mounting onto a handle bar wherein the clamp has a hinge (12). Kagayama additionally teaches providing a layer of padding (31) for gripping onto the handle bar. It would have been obvious to one of ordinary skill in the art to have modify the clamp of Miller such that it is a clamp of the type having a hinge as taught by Kagayama for ease in opening the clamp device and to provide a layer of padding for gripping onto the handle bar as taught by Kagayama.

However, Miller and Kagayama combined does not disclose the hinge is of the living hinge type. Prizzi teaches a clamp device which can have a conventional hinge or a living hinge (26, figure 5) such that the device can be molded in one piece (page 2, paragraph 0023). It would have been obvious to one of ordinary skill in the art to have modify the hinge of Miller and Kagayama combined such that the hinge is of the living hinge type for ease in manufacturing the device as taught by Prizzi.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (US patent no. 2,888,761) in view of Lykens (US Patent no. 6,453,588). Miller disclosed all the claimed features of applicant's invention except for providing the panel with calculator. Lykens teaches providing a calculator (23) on panel of an apparatus mounted on a shopping cart for ease in calculating prices. It would have been obvious to one of ordinary skill in the art to have provided a calculator onto the panel of Miller for calculating prices as taught by Lykens.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (US patent no. 2,888,761) in view of La Coste (US Patent no. 5,823,500). Miller

disclosed all the claimed features of applicant's invention except for providing two spring clips on opposite sides of the panel. La Coste teaches providing two spring clips (7 and 30) on opposite sides of the panel (c) for grasping the upper and lower end of a tablet supported thereon. It would have been obvious to one of ordinary skill in the art to provide additional spring clip onto the lower end of the panel of Miller as taught by La Coste for grasping the lower end of the sheet supported thereon.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining prior art of record demonstrate panel with clamp devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 703-305-8079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Korie H. Chan  
Primary Examiner  
Art Unit 3632

khc  
April 29, 2004